



U.S. Department of Justice

Environment and Natural Resources Division

90-11-3-07683/17

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May 22, 2023

By ECF

The Hon. Leda Dunn Wettre
United States Magistrate Judge
United States District Court for the District of New Jersey
Martin Luther King Building and U.S. Courthouse
50 Walnut Street, Room 4015
Newark, New Jersey 07101

Re: United States of America, Plaintiff v. Alden Leeds, Inc., et al.,
Defendants, Passaic Valley Sewerage Commissioners, et al.,
Intervenors. No. 22-cv-7326-MCA-LDW

Dear Magistrate Judge Wettre:

During the May 19, 2023, telephone conference, and by Order dated May 19, 2023, this Court directed the United States to provide a date certain by which it will notify the Court and all parties how it intends to proceed with the proposed Consent Decree. ECF No. 237.

The United States is carefully evaluating the public comments. As explained in the May 5 Joint Letter, ECF No. 226, there are at least three possible positions that the United States may take, after it completes its review of the public comments:

- 1) First, the United States may conclude that the public comments do not disclose facts or considerations that indicate the proposed Consent Decree is unfair, unreasonable, or inconsistent with CERCLA; in this case the United States would seek entry of the

proposed Consent Decree by motion with the Court, including in its motion papers a copy of the public comments with responses;

- 2) Second, the United States may conclude and inform the Court that the public comments disclose facts or considerations that indicate the proposed Consent Decree must be modified;¹ or
- 3) Third, the United States may conclude and inform the Court that the public comments disclose facts or considerations that indicate the proposed Consent Decree is unfair, unreasonable, or inconsistent with CERCLA, and that it withdraws its support.

Each scenario set forth above would call for a different schedule with different events.

As discussed during the May 19 telephone conference, the United States received multiple public comments, including the comments submitted by Intervenor Occidental Chemical Corporation (“OCC”). OCC’s comments total 777 pages, with close to 24,000 pages of supporting exhibits. The comments include legal arguments, technical arguments, criticisms regarding the decision to settle with many individual settling parties, and twelve expert reports.

Given the breadth and depth of these comments, a proper review and evaluation will take time. Should the United States decide it is appropriate to move forward with a motion to enter the proposed Consent Decree, it will respond to all the comments, thus providing the Court the information it would need to evaluate whether the proposed Consent Decree is fair, reasonable, and in the public interest. As noted in the May 5 Joint Letter, the United States frequently needs months to evaluate and respond to public comments, even in cases where the comments are far less substantial than in this case.

The United States proposes to notify the Court and all parties how it intends to proceed with the Consent Decree no later than September 22, 2023. At that time, it will propose a schedule for filing the motion to enter, a schedule for modifying the proposed Consent Decree, or a schedule for moving to withdraw the proposed Consent Decree.

¹ Defendants and Intervenor reserved all rights in the event that the United States proposes or moves to modify the proposed Consent Decree.

The United States respectfully requests that the Court sign the proposed Order enclosed as Exhibit A. The United States thanks the Court for its time and attention to this matter.

Respectfully submitted,

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Enclosure

cc: Counsel of Record (By ECF)